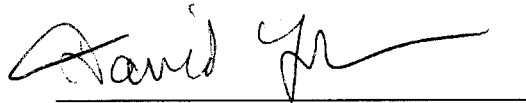


as the corporate designee by plaintiff National Healthcare Services, Inc. pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, taken on October 14, 2003.

3. Annexed hereto as Exhibit "H" is a true and correct copy of excerpts from the videotape deposition of Herbert E. Schwartz taken on September 29, 2003.

Dated: New York, New York
January 25, 2005

A handwritten signature in black ink, appearing to read "David Yohai", written over a horizontal line.

David L. Yohai
Validation of Signature Code: DLY4573

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

* * *
NATIONAL HEALTHCARE : CIVIL ACTION
SERVICES, INC., :
Plaintiff, :
- vs - :
PENN TREATY AMERICAN :
CORPORATION, et al., : NO. 02-CV-3600
Defendants. : (MM)
* * *

ORIGINAL

Tuesday, October 14, 2003
* * *

Realtime videotape
deposition of NEAL A. FORMAN, in his
individual capacity, and Rule 30 (b)(6)
realtime videotape deposition of NATIONAL
HEALTHCARE SERVICES, INC., taken through
its representative NEAL A. FORMAN, held
in the law offices of BALLARD, SPAHR,
ANDREWS & INGERSOLL, LLP, 1735 Market
Street, 42nd Floor, Philadelphia,
Pennsylvania 19103, on Tuesday, October
14, 2003, beginning at 9:33 a.m., before
Kimberly A. Cahill, a Registered
Professional Reporter and Approved
Reporter of the United States District
Court.

* * *

ESQUIRE DEPOSITION SERVICES
15th Floor
1880 John F. Kennedy Boulevard
Philadelphia, PA 19103
(215) 988-9191

1 A. Yes, but those were through
2 Penn Treaty's agents that they were
3 criticizing the program.

4 Q. Okay.

5 A. This wasn't someone that we
6 talked to to bring on board to market the
7 program, because we were restricted to
8 their agents that they already had
9 contracted.

10 Q. Okay.

11 Now let's go to that side.
12 What criticisms were you aware of by
13 agents of Penn Treaty over the program?

14 A. Well, I had already answered
15 that question.

16 Q. Okay.

17 The two things that I had as
18 concerns, not criticisms, were a lack of
19 knowledge about facilities in their area;
20 is that right?

21 A. Uh-hum.

22 Q. You have to answer "yes" or
23 "no."

24 A. Yes.

1 Q. Okay.

2 And that the agents couldn't
3 be specific about the discounts
4 available; is that right?

5 A. Correct.

6 Q. Who was responsible for
7 knowing or having the information as to
8 what discounts were available?

9 A. On what?

10 Q. On the healthcare services
11 being provided, for example, eye care or
12 vision care or dental care.

13 A. We -- we entered into an
14 agreement at contract with DDS, and they
15 had prenegotiated discounts with various
16 providers and vendors; and whatever those
17 negotiated discounts were, that's what we
18 could offer.

19 Q. Okay.

20 So it was DDS that was
21 responsible for knowing what discounts
22 were available; correct?

23 A. Right.

24 Q. And DDS was contracted by

1 National Healthcare Services, Inc.;
2 correct?

3 A. Right, correct.

4 Q. Okay.

5 And there were issues or
6 problems in knowing what discounts were
7 available on the program; isn't that
8 right?

9 A. That is correct.

10 Q. And do you think that that
11 contributed in any way to the -- to the
12 failure of the program?

13 A. I would say partly, but a
14 bigger thing that contributed, again --
15 and I just -- it just occurred to me --
16 one of the things when we set up this
17 program that I insisted that we do is,
18 every agent that we contracted would have
19 a fulfillment kit so that they could show
20 the consumer exactly what the benefits
21 were, what the membership card looked
22 like, what the booklet looked like,
23 everything that the consumer would
24 ultimately receive when they bought the

NEAL A. FORMAN

92

1 program --

2 Q. And in some instances, these
3 consumers didn't receive those kits;
4 correct?

5 A. We're not talking about the
6 consumers. We're talking about the
7 agents that are going to be marketing the
8 program.

9 I wanted the agents to have
10 a professional package of which they
11 could show the consumer, this is what
12 you're going to be receiving once you buy
13 the program.

14 Q. The kits, though, as I
15 understand it, were designed to be sent
16 to -- to potential customers. Right?
17 That's what -- that's who the kits went
18 to; isn't that right?

19 A. That's correct. It's --

20 Q. And in some instances, those
21 customers actually didn't receive those
22 kits; isn't that right?

23 A. I understand there were
24 probably a half a dozen or a dozen people

NEAL A. FORMAN

93

1 that didn't get them due to maybe a wrong
2 mailing address or there was some
3 miscommunication on -- sometimes they
4 were sent to an agent to deliver. Other
5 times they were sent directly to the
6 agent.

7 Q. And who --

8 A. I'm talking about a
9 different problem. I'm --

10 Q. Whose responsibilities was
11 it to send out the agent kits? Whose
12 responsibility was that?

13 A. I believe that was through
14 Web Barth or Mike Hauert or DDS. They
15 were responsible to make sure that all of
16 that was executed properly.

17 Q. And Web Barth -- and Web
18 Barth responded -- I'm sorry.

19 And Web Barth was contracted
20 with National Healthcare Services, Inc.

21 --

22 A. Correct.

23 Q. -- isn't that right?

24 A. Right.

NEAL A. FORMAN

192

1 of 10 percent, could be 15 percent. It's
2 an average savings. Call the 800 line.
3 We will call and see what savings you
4 will be able to get.

5 So I think it was very, very
6 little.

7 Q. What if the 800 number
8 wasn't able to provide the information;
9 would that -- would that have been a
10 problem?

11 MR. LYONS: Objection; calls
12 for speculation, lack of
13 foundation.

14 THE WITNESS: I could only
15 surmise that if they had no way of
16 getting through to the 800 line,
17 that it would be a problem for any
18 company or any --

19 BY MR. YOHAI:

20 Q. So -- okay.

21 So the two options were to
22 go to the provider -- but in this case,
23 in AllRisk's, most of the providers, many
24 of the providers, didn't know about the

1 AllRisk program. Right?

2 MR. LYONS: Objection.

3 BY MR. YOHAI:

4 Q. Is that correct?

5 A. Could be.

6 Q. "Could be" doesn't work. Is
7 it -- is it correct or incorrect or some
8 other answer --

9 MR. LYONS: If you know, you
10 know. If you don't know, you
11 don't.

12 THE WITNESS: I don't know.

13 MR. YOHAI: Okay.

14 THE WITNESS: I'm sorry. I
15 don't know.

16 MR. LYONS: You don't have
17 to apologize.

18 MR. YOHAI: No, you -- you
19 definitely don't have to
20 apologize.

21 THE WITNESS: Oh, okay.

22 BY MR. YOHAI:

23 Q. Are there any other options
24 -- either go to the provider or go to the

NEAL A. FORMAN

194

1 800 number. Were there any other options
2 for the -- for the customer that you're
3 aware of under this program to get the
4 information?

5 A. It would mean that the
6 customer would have to go to the agent
7 and the agent would have to get the --

8 Q. Call the 800 --

9 A. -- information and then get
10 back to the client.

11 Q. And that would also probably
12 be from the 800 number; correct?

13 A. Right --

14 Q. Okay. So --

15 A. -- of HSI's 800 line.

16 Q. Okay.

17 So -- let me show you -- are
18 you -- were you aware of any complaints
19 about the 800 number not providing
20 accurate information?

21 A. No, because I didn't handle
22 that.

23 Q. Now, if the 800 number was
24 unable to provide information, there'd

NEAL A. FORMAN

195

1 really be very little way for either the
2 customer or the agent to get information
3 on this program; isn't that right?

4 MR. LYONS: Objection; calls
5 for speculation, lack of
6 foundation.

7 THE WITNESS: I can't answer
8 that question because I didn't
9 handle that part of it. That's
10 only -- I mean, it would just be
11 speculation on my part.

12 MR. YOHAI: Okay.

13 Let me show you what's been
14 marked as -- what we'll mark as
15 Forman Exhibit --

16 MS. KURCIAS: 17.

17 MR. YOHAI: -- 17.

18 * * *

19 (Whereupon, the
20 above-mentioned document was
21 marked for identification as
22 Forman-17.)

23 * * *

24 BY MR. YOHAI:

1 Q. This is PT 10442 from Pamela
2 Rodgers to Frank Nikischer at the bottom:
3 Frank, I had an agent call whose
4 policyholder was upset because they have
5 an AllRisk policy and wanted to find a
6 list of facilities in their area. So
7 they called the 1-800 number that is
8 listed in their booklet, and they told
9 them to call our 1-800 number. Neither
10 one has access to the Internet. Why
11 would they be doing this?

12 Do you see that?

13 MR. LYONS: Objection to the
14 form and objection to the extent
15 counsel misread the text of the
16 letter.

17 MR. YOHAI: What was the
18 misreading, Mr. Lyons? I -- I
19 would not want to misread the text
20 of the letter.

21 MR. LYONS: Sure. I think
22 that the -- the actual text says
23 "ph." You said policyholder --

24 MR. YOHAI: Oh.

1 MR. LYONS: -- presuming
2 what the abbreviation means, and
3 you also described the 1-800
4 numbers rather than listing the
5 actual digits.

6 MR. YOHAI: Okay. I'll
7 reread it to -- to cure the
8 counsel's objections.

9 "Frank, I had an agent call
10 whose ph was upset because they
11 have an all risk policy and wanted
12 to find a list of facilities in
13 their area so they called the
14 1-800-408-1150 number that is
15 listed in their booklet and they
16 told them to call our
17 1-800-362-0700 number. Neither
18 one has access to the Internet.
19 Why would they be doing this?"

20 Do you see that?

21 THE WITNESS: Yes.

22 BY MR. YOHAI:

23 Q. Does this refresh your
24 recollection that there were problems

1 with the 800 number that was set up for
2 the AllRisk program?

3 MR. LYONS: Objection to
4 form.

5 THE WITNESS: Yeah, I'm
6 going to have to tie this date in.
7 I object to that, because I have
8 to tie this date in --

9 MR. YOHAI: Okay.

10 THE WITNESS: -- of October
11 19th and then, when we instituted
12 the program, that they had access
13 to the web site to be able to look
14 up this information.

15 Can you give me that date?

16 MR. YOHAI: The date of --
17 what would you like?

18 THE WITNESS: When they
19 instituted --

20 MR. LYONS: He asks the
21 questions. You answer them.

22 MR. YOHAI: Yeah.

23 THE WITNESS: Oh.

24 BY MR. YOHAI:

1 Q. Well, you're aware, are you
2 not, that there was a roll-out in -- in
3 May of 2000; isn't that right?

4 A. That's not what I was
5 referring to.

6 Q. Okay. I'm sorry. What are
7 you asking? I'm not -- sorry -- I -- how
8 can I help you?

9 A. Okay. The question I asked
10 in relation to this, had the program --
11 and I don't remember the specific date
12 where we paid the \$20,000 to have that
13 information on a web site -- had that
14 information been on the web site prior to
15 this letter is what I'm asking?

16 MR. YOHAI: Oh, that was
17 what we looked at earlier, June of
18 2000 --

19 THE WITNESS: Yes.

20 MR. YOHAI: -- right?

21 THE WITNESS: Okay. That's
22 what I'm asking.

23 MR. YOHAI: So this is
24 October of 2000.

THE WITNESS: Yes. Right.

Okay. Now, what's the

question?

BY MR. YOHAI:

Q. So the question was, does this refresh your recollection of some problems with the 800 number that was set up?

A. That is correct.

MR. YOHAI: Thank you. We can take our lunch break now.

THE VIDEO TECHNICIAN: The time is 12:20 p.m. Off the record.

* * *

(Whereupon, a luncheon recess was taken from 12:20 p.m. until 1:27 p.m.)

* * *

THE VIDEO TECHNICIAN: The time is 1:27 p.m. We are back on the record.

BY MR. YOHAI:

Q. Mr. Forman, do you

1 with you?

2 Q. Please do.

3 (PAUSE)

4 THE WITNESS: Okay.

5 BY MR. YOHAI:

6 Q. Okay.

7 So you recognize this
8 document.

9 A. Yes, I do.

10 Q. And what is this document?

11 A. This is a document that
12 memorializes what we have agreed to --
13 National Healthcare service has agreed to
14 compensate Web Barth for the fulfillment
15 of the duties on Exhibit B.

16 Q. Right.

17 And this agreement is
18 between National Healthcare Services and
19 Mr. Barth; correct?

20 A. That is correct.

21 Q. Okay.

22 Penn Treaty is not a party
23 to this agreement; correct?

24 A. That's correct.

1 Q. Okay.

2 So Web Barth worked for
3 National Healthcare Services, and DDS
4 worked for Mr. Barth; isn't that right?

5 MR. LYONS: Objection to the
6 form.

7 THE WITNESS: I -- he works
8 with Mr. Barth, not for Mr. Barth.

9 BY MR. YOHAI:

10 Q. Okay.

11 Well, but DDS also
12 contracted directly with National
13 Healthcare Services. Right?

14 A. That is correct.

15 Q. Okay.

16 So, looking at Exhibit B,
17 which are -- this is, I take it, what
18 NHCS and Web Barth were supposed to do;
19 correct?

20 MR. LYONS: Objection to the
21 form.

22 BY MR. YOHAI:

23 Q. Is that right?

24 MR. LYONS: The document

NEAL A. FORMAN

230

1 speaks for itself.

2 BY MR. YOHAI:

3 Q. Is that correct? Is this
4 what they were supposed to do, this list
5 on Exhibit B --

6 MR. LYONS: Objection to the
7 form.

8 BY MR. YOHAI:

9 Q. NH -- is this what National
10 Healthcare Services and Web Barth were
11 supposed to do, Exhibit B?

12 (PAUSE)

13 THE WITNESS: Yes.

14 BY MR. YOHAI:

15 Q. Okay.

16 So, for example, Web Barth
17 was supposed to perform for National
18 Healthcare Services, Inc. -- he was
19 supposed to manage development of all
20 creative materials and forms, the sales
21 brochures, fulfillment package,
22 salesmen's forms, and processing forms;
23 correct?

24 A. Correct.

NEAL A. FORMAN

231

1 Q. Okay.

2 So I guess I come back to
3 your problem with the Baptists. Web
4 Barth was supposed to be managing the
5 creation of the promotional materials.
6 Why didn't you just give the Baptists
7 what Web Barth was creating? What was
8 the problem, Mr. Forman?

9 MR. LYONS: Objection to the
10 form.

11 THE WITNESS: The problem is
12 that the material that was all
13 created we never received when we
14 asked for it from Penn Treaty.

15 BY MR. YOHAI:

16 Q. Why didn't you ask for it
17 from Mr. Barth who worked for you?

18 A. Because --

19 MR. LYONS: Objection to the
20 form.

21 MR. YOHAI: You can answer.

22 THE WITNESS: I've already
23 answered the question.

24 BY MR. YOHAI:

NEAL A. FORMAN

232

1 Q. What was the answer? Why
2 didn't you ask for -- why didn't you ask
3 for the materials from Mr. Bark who --
4 from Mr. Barth who worked for you?

5 MR. LYONS: Objection to the
6 form.

7 THE WITNESS: I've answered
8 that question previously.

9 BY MR. YOHAI:

10 Q. Okay. What's the answer?

11 A. The answer was that we --
12 the material that was supposed to be
13 provided from DDS was supposed to be
14 given to Penn Treaty. Penn Treaty, that
15 I asked for, was supposed to send it to
16 me and they never sent it.

17 Q. As we saw from the prior
18 e-mail, though, they didn't receive the
19 information from DDS; correct?

20 A. Correct.

21 Q. Penn Treaty didn't receive
22 the information --

23 A. Right.

24 Q. -- from DDS.

EXHIBIT H

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF PENNSYLVANIA

3 -----x
4 NATIONAL HEALTHCARE SERVICES, : CIVIL ACTION
5 INC., :
6 Plaintiff, : NO. 02-CV-3600
7 : (MM)
8 VS. :
9 :
10 PENN TREATY AMERICAN : ORIGINAL
11 CORPORATION, et al., :
12 Defendants. :
13 -----x

14 Videotaped deposition of
15 HERBERT E. SCHWARTZ, held at the law
16 offices of BALLARD, SPAHR, ANDREWS &
17 INGERSOLL, LLP, 1735 Market Street, 51st
18 Floor, Philadelphia, Pennsylvania 19103,
19 on Monday, September 29, 2003, beginning
20 at 9:04 a.m., before Debra J. Weaver, a
21 Federally Approved Registered
22 Professional Reporter, Certified Realtime
23 Reporter and Certified Shorthand Reporter
24 of NJ (No. XI 01614) and Delaware (No.
25 138-RPR, Expiration 1/13/05).

26 ESQUIRE DEPOSITION SERVICES
27 1880 John F. Kennedy Boulevard
28 15th Floor
29 Philadelphia, PA 19103
30 (215) 988-9191
31
32
33
34

1 problems and things?

2 A. Correct.

3 Q. Yes?

4 A. Correct. Yes.

5 Q. This March 28th, 2000,

6 e-mail describes an issue with a Ms.

7 Hollis. This is the second e-mail in the

8 chain. That she wants to cancel as the

9 result of delays in getting her

10 fulfillment kit. Do you see that?

11 A. Okay. Yes.

12 Q. Okay. Were you aware of

13 delays in folks getting fulfillment kits

14 during the pendency of the AllRisk

15 product?

16 A. Yes.

17 Q. Okay. You can put that

18 aside.

19 MR. YOHAI: Let's mark this.

20 (Whereupon, Deposition

21 Exhibit No. Schwartz-10, Series of

22 e-mails to and from Sharon

23 Fritzing, Bates PT

24 011662-0011663, was marked for

1 identification.)

2 BY MR. YOHAI:

3 Q. I marked this as Schwartz
4 Exhibit 10. Here's another one of these
5 e-mails, Mr. Schwartz, Bates stamp number
6 PT 11662 through PT 11663. I don't see
7 you copied on this e-mail. But let me
8 just ask you. It complains about a Ms.
9 Plotkin who never received her AllRisk
10 kit --

11 A. Okay.

12 Q. -- after having a month go
13 by.

14 A. All right.

15 Q. This is one of a number of
16 other instances that I've seen. As we
17 discussed this morning, it was DDS's
18 responsibility to provide these
19 fulfillment kits, correct?

20 A. It appears that way, yes.

21 Q. And they worked for -- DDS
22 worked for National Healthcare Services,
23 correct?

24 MR. LYONS: Objection to

1 form.

2 THE WITNESS: They were
3 contracted to provide those
4 services, yes.

5 MR. YOHAI: Okay. You can
6 put that aside.

7 I'm going to show you this
8 now. We'll mark as Schwartz
9 Exhibit 11.

10 (Whereupon, Deposition
11 Exhibit No. Schwartz-11, e-mail
12 dated 4/25/01 to Herb Schwartz
13 from Tracy Levit-Sussman, Bates PT
14 011873, was marked for
15 identification.)

16 BY MR. YOHAI:

17 Q. This is another e-mail from
18 Ms. Tracy Levit to you, Mr. Schwartz, PT
19 11873, dated April 25th, 2001.

20 A. Okay.

21 Q. Okay. Do you recognize this
22 e-mail, Mr. Schwartz? Did you receive
23 it?

24 A. I assume I received it. It

1 looks familiar, yes.

2 Q. Okay. Ms. Levit is
3 complaining about problems with getting
4 sample membership kits from DDS. Do you
5 see that?

6 A. Yes.

7 Q. And she says it may have to
8 do with the fact that the account rep
9 changed from Jim Bell to Chrissy. Do you
10 see that?

11 A. Yes.

12 Q. Were Jim Bell and Chrissy
13 folks who worked at DDS?

14 A. Yes.

15 Q. Okay. And then it says, I
16 got another call and it changed again to
17 Dea Louis. Do you see that?

18 A. Yes.

19 Q. Was that yet a third person
20 that worked at DDS?

21 A. Yes.

22 Q. Do you recall there being
23 some issues with management folks at DDS
24 changing the people in charge of these

1 sample membership kits? Do you recall
2 that being an issue?

3 A. It wasn't a problem, but DDS
4 is quite a substantial firm and they
5 either changed employees or they switched
6 responsibilities. I don't know why these
7 things happened there. But -- and why
8 there was a delay in them getting sample
9 kits, I don't know why.

10 Q. Okay. But it's fair to say
11 that there at least was -- it seemed like
12 a great deal of turnover at DDS in terms
13 of the people handling this
14 responsibility and that may have
15 contributed to the delay in getting some
16 of the fulfillment kits out; is that
17 right?

18 A. Possibly, yes.

19 Q. Okay.

20 MR. YOHAI: Can we mark this
21 as Schwartz Exhibit 12.

22 (Whereupon, Deposition
23 Exhibit No. Schwartz-12, Forward
24 e-mail from 11/20/00, Bates NHCS

1 00347, was marked for
2 identification.)

3 BY MR. YOHAI:

4 Q. I'm showing you now what's
5 been marked as Schwartz Exhibit 12,
6 NHS -- NHCS 347. It's a forward e-mail
7 from 11/20/2000. You're one of the folks
8 listed at the top there.

9 A. Okay.

10 Q. Do you see that?

11 A. Yes.

12 Q. Okay. Do you recall
13 receiving this e-mail?

14 A. Okay. Yes, I did.

15 Q. Okay. Now, in the text of
16 the e-mail, it says, "Mark Cohn's client,
17 Eleanor Wverger, wanted to use the HHC
18 plan." Do you see that?

19 A. Yes.

20 Q. I take it, it's your
21 understanding that Eleanor Wverger is
22 someone who signed up for the AllRisk
23 program?

24 A. It appears that way.

1 Q. And she wanted to use the
2 HHC plan and she called the care
3 coordinator and they gave her a list of
4 providers, and then she apparently called
5 some of the providers on the list and
6 none of them had ever heard of AllRisk,
7 correct?

8 A. Correct.

9 Q. And this is an example of an
10 actual customer calling up the nursing
11 home facility --

12 A. Correct.

13 Q. -- and concluding that they
14 had never heard of AllRisk, right?

15 A. Correct.

16 Q. Now, I know that it's your
17 position that this isn't what the
18 customer was supposed to do --

19 A. Correct.

20 Q. -- it was supposed to be
21 handled a different way.

22 A. Right.

23 Q. But it's true, is it not,
24 that at least in some instances the

1 people who signed up for the program
2 would call the agencies, the providers
3 directly, and sometimes be informed that
4 they never heard of AllRisk, correct?

5 A. It appears that way.

6 Q. Do you think that this could
7 contribute to a lower renewal rate,
8 people who had done this and not gotten
9 information that their person was -- that
10 their local nursing home was covered?

11 A. I'd say that any product
12 that you're not getting the service, the
13 person is not going to keep it.

14 Q. And that would include the
15 AllRisk product?

16 A. That would include any
17 product.

18 Q. So if the person called up
19 and found out that the nursing home had
20 never really heard of AllRisk, that might
21 be a reason the person would decide not
22 to renew their policy?

23 A. In this particular case, the
24 DDS employee was not supposed to give

1 them a list of the nursing homes. They
2 were supposed to actually coordinate what
3 nursing homes that they were interested
4 in and then coordinate the discounts and
5 services for them.

6 Q. So DDS acted incorrectly in
7 this instance?

8 A. I would think so.

9 Q. And -- but you would agree
10 that someone who called up and found -- a
11 customer who called up and found that the
12 nursing home had no record of AllRisk,
13 that might be a cause for failing to
14 renew?

15 MR. LYONS: Objection. Lack
16 of foundation.

17 THE WITNESS: I'd say if DDS
18 followed through and provided them
19 with a provider and discount, they
20 would continue to keep the
21 product. If they just said forget
22 the whole thing when it came up
23 for renewal, probably they would
24 not keep it.

1 BY MR. YOHAI:

2 Q. And DDS was an agency which
3 contracted with your company on the
4 AllRisk product?

5 A. That's correct.

6 MR. YOHAI: Let me show you
7 now what we'll mark now as
8 Schwartz Exhibit 13.

9 (Whereupon, Deposition
10 Exhibit No. Schwartz-13, Memo
11 dated 5/9/00 to Kathy Lannen from
12 Web Barth, with attachment, Bates
13 NHCS 00300-00303, was marked for
14 identification.)

15 BY MR. YOHAI:

16 Q. Now, this is a memo from Web
17 Barth to Kathy Lannen dated May 9th,
18 2000, right?

19 A. Uh-huh.

20 Q. Also copied to you, Mr.
21 Schwartz. It's Bates stamp numbered NHCS
22 300 through 303. Do you see this?

23 A. Yes.

24 Q. Okay. Do you believe you

1 in your kit. Outside what was listed,
2 you call the 800 number.

3 Q. Okay. Let's show you what's
4 been marked as Schwartz 15 --

5 (Whereupon, Deposition
6 Exhibit No. Schwartz-15, e-mails
7 dated 10/19/00, Bates PT 010442,
8 was marked for identification.)

9 BY MR. YOHAI:

10 Q. -- Bates stamp number PT
11 10442. It's a few e-mails dated October
12 19th, 2000.

13 Now, this e-mail recounts an
14 episode where the agent's policyholder,
15 the actual person who had one of the
16 AllRisk programs, called the 800 number
17 and the people at the 800 number actually
18 referred them to Penn Treaty's 800
19 number. Can you think of a reason why
20 they would be doing that?

21 A. Let me read this, please.

22 Q. Sure.

23 MR. LYONS: And I object to
24 lack of foundation.

1 THE WITNESS: I'm not aware
2 of this. And it's very possible
3 they had a policy with Penn
4 Treaty, an insurance policy, in
5 addition to this. They just
6 happened to call them. I don't
7 know.

8 BY MR. YOHAI:

9 Q. Okay. But it would be
10 inappropriate to your understanding for
11 DDS to be referring people to Penn
12 Treaty's 800 number if it was a question
13 about the AllRisk product?

14 A. Correct.

15 Q. Okay. And that would just
16 generate more confusion?

17 A. Absolutely.

18 Q. Okay.

19 MR. YOHAI: Mark this as
20 Schwartz-16, if that's what we're
21 up to.

22 (Whereupon, Deposition
23 Exhibit No. Schwartz-16, Memo
24 dated 11/3/00 to Derrick

1 Brickhouse, Jackie Frantz, Jane
2 Bagley from Larry Hausman, Bates
3 PT 010400-010401, was marked for
4 identification.)

5 BY MR. YOHAI:

6 Q. Mr. Schwartz, this is a
7 memorandum from a Larry Hausman to
8 Derrick Brickhouse, Jackie Frantz and
9 Jane Bagley I don't see you copied on
10 this, so I don't know if you received it
11 or anything like it, but I'll let you
12 take a look at it and you can tell me if
13 you received this.

14 A. I don't recall seeing this,
15 but let me just read this.

16 Q. Okay.

17 A. I don't -- who is Larry
18 Hausman?

19 Q. My question --

20 A. I'm not aware of this.

21 Q. Okay. And that's fine. My
22 question to you is simply this. The
23 e-mail recounts a situation where the
24 woman entered into a contract in March of